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OFFICE OF PETITIONS

In re Patent No. 6,862,106 :
Hiroshi Matsushima :
Issue Date: March 1, 2005 : DECISION ON
Application No. 09/604,980 : PETITION
Filed: June 28, 2000 :
Attorney Docket No. 35.G2609 :
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed April 29, 2005. Patentee requests that the patent term adjustment under 35 U.S.C. 154(b) indicated in the patent be corrected from eight hundred sixty-one (861) days to nine hundred thirty-nine (939) days.

The request for reconsideration of patent term adjustment is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of nine hundred thirty-nine (**939**) days.

On March 1, 2005, the application matured into U.S. Patent No. 6,862,106, with a revised patent term adjustment of 861 days. On April 29, 2005, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 939 days. Patentee disputes the reduction of 78 days associated with the filing of a supplemental oath or declaration after the mailing of the notice of allowance.

Patentee states that at the request of the Office they re-supplied a copy of the executed declaration, previously submitted on November 6, 2000 (before the mailing of the Notice of Allowance and within 3 months of the mailing of the Notice to File Missing Parts of Application).

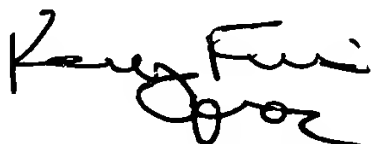
Patentee's arguments and evidence have been considered, in light of the record, and found persuasive. Under the circumstances, it is concluded that the re-supplying of the executed declaration on December 14, 2004, did not constitute a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10).

In view thereof, the patent should have issued with a revised patent term adjustment of nine hundred thirty-nine (939) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by NINE HUNDRED THIRTY-NINE (939) days.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.



Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction